

U.S. Patent Application Serial No. 09/606,328, which was filed on June 29, 2000. Therefore, the earliest effective filing date of the present application predates the filing date of Soerens.

Accordingly, Applicant respectfully requests that the rejections of claims 8 and 9 be withdrawn.

IIb. Rejection of Claim 4 under 35 U.S.C. § 103(a)

Claim 4 stands rejected under 35 U.S.C. § 103(a) as unpatentable over Soerens in view of U.S. Patent No. 6,039,716 to Jessup et al. ("Jessup"). The Examiner states that Soerens in combination with Jessup renders the claim obvious.

For the same reason as stated above in overcoming the rejections of claims 8 and 9, Applicant respectfully submits that Soerens does not qualify as prior art to the present application. Accordingly, Applicant respectfully requests that the rejection of claim 4 be withdrawn.

IIc. Rejection of Claim 10 under 35 U.S.C. § 103(a)

Claim 10 stands rejected under 35 U.S.C. § 103(a) as unpatentable over Soerens in view of U.S. Patent No. 5,885,265 to Osborn, III et al. ("Osborn"). The Examiner states that Soerens in combination with Osborn renders the claim obvious.

For the same reason as stated above in overcoming the rejections of claims 8 and 9, Applicant respectfully submits that Soerens does not qualify as prior art to the present application. Accordingly, Applicant respectfully requests that the rejection of claim 10 be withdrawn.

IV. Request for Withdrawal of Finality of the Outstanding Office Action

Since all the rejections of the pending claims relied on Soerens, Applicant respectfully submits that the final rejections thereof were issued prematurely. Accordingly, Applicant respectfully requests that the finality of the rejections be withdrawn.¹

¹ MPEP provides: "If, on request by applicant for reconsideration, the primary examiner finds the final rejection to have been premature, he or she should withdraw the finality of the rejection." MPEP, § 706.07(d), ¶ 1.

